MACKIE WOLF ZIENTZ & MANN, P.C. Stephen Wu PARKWAY OFFICE CENTER, SUITE 900 14160 DALLAS PARKWAY DALLAS, TX 75254 (214) 635-2650 (214) 635-2686 – FACSIMILE

UNITED STATES BANKRUPTCY COURT IN THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

In re: Raynaldo X. Bush aka Raynaldo	§	Case No. 21-50116-cag
Ximenez Bush	§	(Chapter 13)
	§	
	§	
Carvana, LLC, their successors and/or	§	
assigns, Creditor	§	
	§	
vs.	§	
	§	
Raynaldo X. Bush aka Raynaldo Ximenez	§	
Bush, Debtor and Mary K. Viegelahn,	§	
Trustee,	Ū	
Respondents		

OBJECTION TO CONFIRMATION BY CARVANA, LLC

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Carvana, LLC (hereinafter Creditor), a secured creditor herein, and pursuant to 11 U.S.C. §§ 1322(b)(2), 1324 and 1325(a)(5), and Bankruptcy Rule 3015(f) files this, its Objection to Debtor(s) proposed Chapter 13 Plan (hereinafter Plan), and in support thereof would respectfully show the Court as follows:

I. BACKGROUND

- 1. Raynaldo X. Bush *aka* Raynaldo Ximenez Bush, the Debtor(s) (hereinafter Debtor), commenced the above captioned Chapter 13 case on 02/01/2021. Mary K. Viegelahn is the duly appointed and acting Chapter 13 Trustee.
- Creditor has a perfected purchase money security interest in a 2013 Cadillac SRX FWD V6 FFV VIN# GYFNCE35DS654484.
 - 3. The total secured claim due and owing to Creditor as of the Petition Date was \$10,124.84

as evidenced by Creditor's secured proof of claim 2-1 (hereinafter Proof of Claim) on file in this

case.

II. OBJECTION TO PROPOSED PLAN

4. Creditor objects to confirmation of the Plan because the Plan understates the value of the

vehicle. Debtor(s) Plan incorrectly states that the value is \$6,750.00, when Creditor shows the

NADA clean retail value to be \$17,400.00. As Creditor's value of the vehicle is higher than its

claim, Creditor requests payment of its claim in the amount \$10,124.84 be paid through the plan.

5. Creditor further objects to confirmation of the Plan under 11 U.S.C. § 1325(a)(6) because

Debtor's current Schedule J reflects a surplus of \$375.00, which is enough to only fund the

current trustee payment of \$375.00, although the Debtor is also proposing a payment in the

amount of \$8,558.00 for month one (1). There does not appear to be enough income surplus to

fund Creditor's increased claim. Creditor therefore further Objects to Debtor's plan based on

lack of feasibility.

6. Because Creditor was forced to file this Objection to Confirmation to protect its secured

interest in the subject real property, it has incurred reasonable attorneys' fees.

WHEREFORE, PREMISES CONSIDERED, Creditor prays that this Court deny

confirmation of the Plan proposed by the Debtor(s), award attorneys' fees and costs, and grant

Creditor such other and further relief, at law and in equity, as is just.

Respectfully submitted,

MACKIE WOLF ZIENTZ & MANN, P.C.

Parkway Office Center, Suite 900

14160 Dallas Parkway

Dallas, TX 75254

Phone: (214) 635-2650

Facsimile: (214) 635-2686

Email: swu@mwzmlaw.com

By: <u>/s/ Stephen Wu</u>

Stephen Wu (Bar No. 24042396)

Michael W. Zientz (Bar No. 24003232) Jessica L. Holt (Bar No. 24078680) Stephen Wu (Bar No. 24042396) Chelsea Schneider (Bar No. 24079820)

ATTORNEY FOR CREDITOR

Certificate of Service

I, Stephen Wu, do hereby certify on March 10, 2021, a copy of this motion was served on the persons listed below in the manner indicated.

By: /s/ Stephen Wu

Michael W. Zientz (Bar No. 24003232) Jessica L. Holt (Bar No. 24078680) Stephen Wu (Bar No. 24042396) Chelsea Schneider (Bar No. 24079820) Movant's Counsel

Via Pre-Paid U.S. Mail: Raynaldo X. Bush *aka* Raynaldo Ximenez Bush 619 Rockwell Blvd San Antonio, TX 78224 Debtor(s)

Via ECF: Ruben E. Vasquez 5411 IH-10 W Suite 100 San Antonio, TX 78201 Attorney for Debtor(s)

Via ECF: Mary K. Viegelahn Chapter 13 Trustee 10500 Heritage Blvd Suite 201 San Antonio, TX 78216

Via ECF: US Trustee